

HOUSE BILL 597

By Turner M

AN ACT to amend Tennessee Code Annotated, Title 68,  
relative to the health effects of drift from aerial  
spraying of pesticides.

WHEREAS, pesticide exposure poses significant risks to human health and is a public health issue; and

WHEREAS, symptoms such as respiratory infections, diarrhea, asthma, sinus problems, nose bleeds, headaches, nausea, sore throats and neurological complications have occurred directly after pesticide exposure; and

WHEREAS, a United States department of health and human services study shows that the greatest potential for pesticide exposure from aerial drift will be within short distances from the target area (less than 500 feet) of pesticide application; and

WHEREAS, public notification requirements and limitations on application sites near homes or public facilities can prevent or reduce harmful human health effects from exposure to the drift of such pesticides;

WHEREAS, other states have provided similar preventive measures as those set forth in this law recognizing public health and welfare requiring it; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2 through 7 of this act as a new chapter.

SECTION 2. The title of this chapter is, and may be cited as, the "Tennessee Aerial Spraying Public Health Protection Act of 2007".

SECTION 3. It is the intention of the general assembly to ensure that the general public health is protected and that human exposure to pesticide drift is limited. This act should be interpreted to further that end.

SECTION 4. As used in this act, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of health.

(2) "Pesticide" means any substance or mixture of substances, or chemical intended for defoliating or desiccating plants, or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other form of plant or animal life the commissioner shall declare to be a pest. This includes, but is not limited to, insecticide, fungicide, bactericide, herbicide, desiccant, defoliant, adjuvant or nematocide.

SECTION 5.

(a) A system shall be established by the commissioner to track health-related illnesses cited as relating to the aerial drift of pesticides.

(b) After the effective date of this act, all doctors, hospitals, primary care facilities, emergency after hours clinics and any other official medical care facility shall report health cases in which aerial drift of pesticides is believed by the patient to be the cause of the ailment to the local health department in such manner as shall be prescribed by the commissioner. It is violation for such persons or institutions to fail to report such incidents.

(c) Information reported shall include the symptoms recorded by the medical professional.

(d) The health department shall keep a log of these reports including the date of the information provided.

(e) The information shall be compiled as a log for three (3) years upon which time the department of health shall review the data to determine if further restrictions are necessary.

(f) Failure to comply with the requirements of this section shall subject the person or institution a civil penalty to be assessed by the commissioner after a hearing.

#### SECTION 6.

(a) The department of health shall maintain a current registry of chemically sensitive persons.

(1) Upon request, the department of health shall register any person who submits documentation from a licensed physician stating the person's sensitivity to chemicals.

(2) The department of health shall request a list of licensed aerial applicators from the department of agriculture in order to notify these applicators twice yearly, before and mid-spraying season, of the name, address, telephone number, e-mail address and fax number of those persons registered as chemically sensitive with the department of health.

(A) This notice shall include the following statement:

The department of health requires all licensed aerial applicators to contact, prior to applying pesticides by air, all persons who reside in the general area where pesticides will be applied by air. Specific notification of aerial application of pesticides must be given to those who are on the registry of chemically sensitive persons, which is maintained by the department of health.

(3) Licensed aerial applicators shall notify all persons registered as chemically sensitive who reside within one (1) mile from the boundary of the property where pesticides will be applied by fax or e-mail at least twenty-four (24) hours prior to the aerial application of pesticides.

(A) The notice shall include the name and phone number of the landowner and the location of each intended pesticide application as well as the name or names of the pesticide or pesticides to be sprayed and the date of aerial application.

(B) The communication shall be copied to the department of health.

(b) Aerial applicators applying pesticides in the state of Tennessee shall notify the public of an aerial spraying action prior to the pesticide application no later than the day before the pesticide application is to be made. Public notice shall be through public service announcements (PSA) in newspapers or radio stations of general circulation in the county in which the application is to be made.

(1) Applicators shall submit or fax the PSA to both the media outlet and to the department of health.

(2) The PSA shall include the name and phone number of the landowner and the location of each intended pesticide application as well as the name or names of the pesticide or pesticides to be sprayed as well as the projected date of aerial application.

(3) The PSA shall also include the department of health's toll free hotline and website for reporting problems with pesticide exposure by aerial drift.

(4) The PSA shall be submitted before the deadline for which the newspaper or radio station can circulate or transmit the notice to the public within the required time frame of at least a day before aerial pesticide application.

SECTION 7. The commissioner is authorized to promulgate rules and regulations in accordance with the uniform administrative procedures act, title 4, chapter 5, to effectuate the provisions of this act and shall in such rules establish civil penalties for violations of this act.

SECTION 8. If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.